IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8886 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

THE GUJARAT REVENUE TRIBUNAL - Petitioner(s)
Versus
UNION OF INDIA & 3 - Respondent(s)

==========

Appearance :
MR TRILOK J PATEL for Petitioner(s) : 1,
MR AMAR D MITHANI for Respondent(s) : 1 - 4.

==========

CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 19/07/2007

ORAL JUDGMENT

1. The petitioner is a association of advocates practicing in Gujarat Revenue Tribunal, at Ahmedabad. The association decided to invest some amount with the Postal

Department by purchasing Kisan Vikas Patra [“KVP” for short] and in pursuance of the said decision, it purchased KVP worth Rs.30,000=00. The KVP were to mature in the month of December, 2005. Upon the prescribed time being over, the petitioner requested respondent no. 3 to release the amount of Rs.60,000=00 which the association is entitled to receive upon maturity of the KVP. However, at that time, it was learnt that under the scheme of KVP only individual and a trust registered under the Bombay Public Trust were entitled to invest. The respondents after due consultation *inter-se* decided that the petitioner cannot be given benefit of KVP and they refused to pay interest thereon. Hence, this petition.

2. I have heard Mr. Trilok Patel learned advocate for the petitioner and Mr. A. M. Mithani learned advocate for the respondents. It is submitted by Mr. Patel that once having accepted the amount for investment under KVP scheme, the respondents now cannot turn around and refuse to make the payment of interest thereon. As against that, Mr. Mithani, has submitted that when the petitioner association is not entitled to invest under the scheme, the investment itself was illegal and no interest could be paid by the respondents. Mr. Patel has placed reliance on the decision rendered by the learned Single Judge of this Court in the case of **Mahila Sewa Sahakari Bank Ltd.,**

v. Chief Post Master, Ahmedabad & Ors., reported in 2007 (2) GLR pg. 945. While rendering the said decision, the learned Judge has placed reliance on the decision of the Division Bench in Letters Patent Appeal No. 1509/2004 in Special Civil Application No.2877/2003 and in particular the following observations.

> "4. I have perused the case papers and have also heard the learned counsel for the parties. Rule 6 of KVP Rules does not permit the petitioner society to purchase Kisan Vikas Patras, but the fact remains that such Kisan Vikas Patras have been purchased by the petitioner society on 6th March, 1997. It may be noted that it is always a matter of policy for the Union of India to decide the beneficiaries of the scheme. There is no legal right vested in the petitioner to purchase Kisan Vikas Patra and to earn interest thereon. When the beneficiaries are accurately prescribed by statutory Rules framed by the Union of India, the scope and extent of the said policy cannot be expanded so as to cover the similarly situated persons like the petitioner. There may be many more persons like the petitioner who are not entitled to purchase the Kisan Vikas Patra. The scheme is not meant for all the persons. It is explicitly clear from Rule 6 of the KVP Rules, 1988 that very few and limited persons who are referred in the Rules are entitled to purchase Kisan Vikas Patras. The vires of Rules are not challenged. Once the Rules are not challenged, the simple interpretation of the Rules, ousts the petitioner society from the scope and ambit of Rule 6 of the KVP Rules, 1988. Enough care has been taken by enacting Rule 13 for purchase of Kisan Vikas Patra in contravention of KVP Rules of 1988 Rule 13 has been enacted which unambiguously takes away the right of such unauthorised, improper and irregular purchaser to earn the interest on the principal amount for which Kisan

> Vikas Patra has been purchased. The function of the Court is to merely interpret the Rules as they are. The learned counsel for the petitioner consistently submitted that some leniency may be shown by this Court to take deviation from the Rules and some interest may be allowed to be given from the respondents by issuing a writ under Article 226 of the Constitution of India, but the same is not permissible under the Rules, 1988."

2.1. It is clear from the aforesaid that the facts of the present case are similar to the facts of the case before the learned Single Judge. The petitioner is, therefore, entitled to receive complete benefit of the scheme and the interest on their investment. It appears that the decision of this Court in Letters Patent Appeal was challenged before the Apex Court by the respondent Union of India, but the challenge was unsuccessful since Special Leave Petition filed by the respondents was dismissed by the Apex Court by order dated 21st July, 2005. This petition therefore deserves to be allowed and it is hereby allowed. The respondents are directed to pay to the petitioner without any delay an amount of Rs.60,000=00 [Rupees Sixty Thousand only], which it is entitled to receive on the maturity of KVP. Rule is made absolute accordingly.

[Akshay H. Mehta, J.]

/phalguni/